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OFFICE OF PETITIONS

In re Patent No. 6,772,077 :
Issue Date: August 3, 2004 :
Application No. 09/762,562 : NOTICE
Filed: February 13, 2002 :
Attorney Docket No. 381-23-014 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Petitioner has submitted \$635 for the balance due for the fee deficiency for the issue fee; whereas, the correct fee should have been \$695. Accordingly, petitioner's deposit account is being charged an additional \$70 for the issue fee deficiency.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This file is being returned to Files Repository.


Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy